THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.15866 of 2007

02.8.2007

Between:

Bikkina Rama Rao, S/o.late Somanna
And others

… Petitioners

AND

The Special Deputy Tahsildar (Tribal Welfare),
Kota Ramachandrapuram, West Godavari District
And others

… Respondents

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ORDER:

All the petitioners are non-tribals. They filed the present writ petition aggrieved by the orders of the Government in G.O.Ms.No.53, dated 16.7.2007, dismissing the revision petition filed by the petitioners under Section 6 of Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959, as amended by Regulation I of 1970 (hereafter called, the Regulation) confirming the orders of the Agent to the Government (third respondent), who upheld the orders of the second respondent, namely, the Special Deputy Collector (Tribal Welfare), dated 30.4.1992 in SR Nos.348/79 and batch.

The petition averments are as follows. All the petitioners obtained lease of land admeasuring Acs.60.00 in survey Nos.462 and 472 situated at Ganapavaram village of Buttaigudem Mandal in West Godavari District, from the persons belonging to non-tribals. On 20.12.1969 they allegedly entered into agreements of sale for purchase of the land and were in possession of the land. In 1977, first petitioner purchased an extent of Acs.12.60 in survey No.472, second petitioner purchased Acs.8.00 in survey No.472, third petitioner purchased Acs.10.00 in survey No.462, fourth petitioner purchased Acs.4.00 in survey No.462, fifth petitioner purchased Acs.4.25 in survey No.464, sixth petitioner purchased Acs.11.43 in survey No.462, and seventh petitioner purchased Acs.11.43 in survey Nos.462 and 464. All these sales were under registered sale deed dated 29.1.1977. They then approached the Mandal Revenue Officer (MRO), who also gave a possession certification to them. Second respondent initiated action under Section 3(2) of the Regulation for allegedly contravention of the provisions under Section 3(1)(a) of the

Regulation and passed orders on 30.4.1992 for ejectment of the petitioners from the land. They preferred appeals before the Agent to the Government in SRA No.22/93 unsuccessfully, as they were dismissed on 27.10.2001. Their revision petition was also dismissed by the Government.

Learned Counsel for the petitioners submits that the original lease as well as agreements of sale in favour of petitioners was prior to coming into force of Regulation I of 1970 and therefore the sale transactions in favour of the petitioners are valid. He would stress that the first transaction in favour of the petitioners was by way of lease in 1968 and later by way of agreements of sale in 1969, which are beyond the purview of Regulation I of 1959, as amended by Regulation I of 1970. **Per** contra, learned Government Pleader for Social Welfare submits that when the petitioners claim they have purchased the land in 1977 under registered sale deeds, it is certainly prohibited under Section 3(2) of the Regulation. He would urge that the lease or agreements of sale do not confer any title on the petitioners and is only under the sale deeds, petitioners acquired title after coming into force of Regulation I of 1970.

The sale by non-tribals in favour of non-tribals is prohibited under Section 3(1) of the Regulation. In **Gaddam Narsa Reddy v Collector, Adilabad District**[1], a Full Bench of this Court considered the question as to whether Regulation I of 1970, amending Section 3 of Regulation I of 1959 is retrospective or not. Answering the question in the negative, their Lordships laid down as under.

> A transfer of immovable property situate in agency tracts, made after the coming into force of the A.P. Scheduled Areas Land Transfer Regulation I of 1959 or its amendment Regulation II of 1963 or Amendment Regulation I of 1970, even if made in compliance with the provisions of the Transfer of Property Act, Indian Registration Act or Hyderabad Tenancy and Agricultural Lands Act or any other law applicable thereto, is null and void, if it contravenes the provisions of S.3(2) of the said Regulation, the authorities mentioned therein can decree ejectment of the persons claiming under such transfer and pass orders restoring the lands to the transferors or their successors or pass orders for disposing of the said property as directed therein.
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> Section 3(1) of the Regulation I of 1959 and its amendments by Regulation II of 1963 and I of 1979 have no retrospective operation and do not affect transfers made prior to the said Regulation or its amendments coming into force and the authorities under Section 3(2) of the Regulation have no jurisdiction to pass orders in relation to the immovable property covered by such transfers.

In **Deputy Collector v S.Venkata Ramanaiah**[2], the Supreme Court considered the question, "whether the proceedings of the Regulation I of 1959, Regulation II of 1963 and Regulation I of 1970 have retrospective effect and can affect the proceedings made prior to coming into force of the Regulation I of 1917". Supreme Court answered the question as follows.

> On a conjoint reading of Section 3(1)(a) and Section 3(2)(a), it becomes clear that the section seeks to hit the transfers effected after the section came into force and possession only under such invalid transfers is sought to be dealt with for the purpose of eviction of transferees and restoration of possession to transferors, as the case may be, under Section 3(2)(a) of the Regulation. Consequently, the alternative submission of learned senior counsel for the authorities that even though transfer of immovable property in the Agency tracts may not be hit by section 3(1)(a) still possession under such transfers could be restored to the original transferor under Section 3(2)(a), cannot be countenanced. Section 3(2)(a) is also corollary to Section 3(1)(a) and cannot have any independent role to play. Nor can it cover any area, which is not encompassed by the sweep of Section 3(1)(a).

Admittedly the sale deeds in favour of the petitioners were registered on 29.1.1977 after coming into force of Regulation I of 1970 with effect from 03.2.1970. Therefore the sale deeds are absolutely void. When the petitioners claim title only under the sale deeds, they cannot now contend that transfer in their favour was under lease in 1968 or under agreements of sale in 1969. The Agent to the Government as well as the Government considered this aspect of the matter and correctly came to the conclusion that the transaction between the petitioners and other non-tribals took place after coming into force of the Regulation I of 1970 and therefore it is certainly void.

The writ petition is devoid of any merit and is accordingly dismissed. No costs.

(**V.V.S.RAO,J**)

August 02, 2007.
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[1] AIR 1982 AP 1 (FB)

[2] AIR 1996 SC 224